HAMPTON PLANNING BOARD – MINUTES AUGUST 3, 2005 – 7:00 PM

PRESENT: Tracy Emerick, Chairman

Tom Higgins, Vice Chairman

Fran McMahon, Clerk

Robert Viviano Tom Gillick

Cliff Pratt, Selectman Member

Bill Bilodeau, Alternate

ABSENT: Keith Lessard

James Steffen, Town Planner

Chairman Emerick began the meeting at 7:00 PM by introducing the Board members. Mr. Bilodeau led the Pledge of Allegiance to the flag.

CONTINUATION:

Chairman Emerick announced that the applicant requested a continuance of the following application:

9) Carl S Brytz & John Baker

Minor Lot Line Adjustment at

238 + 246 Woodland Road

Map 77 Lots 5 + 7

Waiver from Sub Regs S. V.E (Detailed Plan) & VII.C (Storm Drainage)

Owner of Record: Carl S Brytz & John Baker

MOVED by Mr. Viviano to accept continuance of the application to the September 7th Planning Board meeting.

SECOND by Mr. Pratt

VOTE: 7-0-0 MOTION PASSED

NEW PUBLIC HEARINGS

1) William I Lawrence III

Special Permit to Work in Wetlands Buffer at

2 Nor'East Lane

Map 99 Lot 11A

Owner of Record: William I Lawrence III

2) Brian R Moses

Special Permit to Work in Wetlands Buffer at

4 Nor'East Lane

Map 99 Lot 11

Owner of Record: BRM Revocable Trust

8/25/2005

3) Timothy E Lyons Special Permit to Work in Wetlands Buffer at 8 Nor'East Lane Map 99 Lot 9 Owner of Record: Timothy E Lyons

4) Hal Hoefle

Special Permit to Work in Wetlands Buffer at 12 Nor'East Lane Map 99 Lot 8 Owner of Record: Marjorie Lee Hoefle Rev Trust

Winston Clark 5)

> Special Permit to Work in Wetlands Buffer at 16 Nor'East Lane Map 99 Lot 17

Owner of Record: Florence Clark Rev Trust 1991

Messrs Hoefle, Lawrence, Lyons and Moses presented these applications. Mr. Lawrence described the process that they have followed to secure the appropriate approvals and repair the damaged seawall.

BOARD

No questions

PUBLIC

No comments

BOARD

MOVED by Mr. Gillick to allow Mr. Lawrence to work in the wetlands buffer.

SECOND by Mr. Bilodeau

VOTE: 7-0-0 MOTION PASSED

MOVED by Mr. Gillick to allow Mr. Moses to work in the wetlands buffer.

SECOND by Mr. Bilodeau

VOTE: 7-0-0 MOTION PASSED

MOVED by Mr. Gillick to allow Mr. Lyons to work in the wetlands buffer.

SECOND by Mr. Bilodeau

VOTE: 7-0-0 MOTION PASSED

MOVED by Mr. Gillick to allow Mr. Hoefle to work in the wetlands buffer.

SECOND by Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

MOVED by Mr. Gillick to allow Mr. Clark to work in the wetlands buffer.

SECOND by Mr. Bilodeau

VOTE: 7-0-0 MOTION PASSED

James H & Judith E Wilson
 Special Permit to Work in Wetlands Buffer at
 52 Barbour Road
 Map 110 Lot 5
 Owner of Record: James H & Judith E Wilson

Mr. Wilson presented his application. He indicated that his house and garage are located in the 50-foot wetland buffer and he proposes to construct an addition to this property to attach the garage to the house.

BOARD

No questions

PUBLIC

No comments

BOARD

MOVED by Mr. Gillick to grant the special permit to work in the wetlands buffer, with the following conditions:

- The applicant shall remove all debris from the wetland and abide by the shore land protection regulations.
- The Conservation Commission will be notified at the start and finish of construction.
- Monumentation shall be placed at 50-foot intervals along the wetland boundaries.
- Lawn care must follow the guidelines set forth in the Shoreland Protection Act. Grass clippings will not be placed in the buffer or in the wetlands.
- Per the State Shoreland Protection Act, no more than 50% of the trees shall be cut within a 20-year period.
- Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. (Silt fence and hay bales)
- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed using existing fill.
- There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface in the buffer, other than that shown

on the plan. A new Special Permit is required for the erection of any structure in the buffer.

SECOND by Mr. Viviano

VOTE: 7-0-0 MOTION PASSED

7) John W & Barbara A Donaldson

(Helen J Moynihan) Lot Line Adjustment 4 – 6 Jenness Road Map 179 lots 50 + 58

Waivers: S. V.E (Detailed Plan), VII.C (Storm Drainage)

Owner of Record: Same as above

Anne Bialobrzeski, Surveyor, and Mr. Donaldson presented this application. The purpose of the lot line adjustment is to replace an existing fence and, at the same time, to place it on Mr. Donaldson's own land. Mr. Donaldson's lot will become 204 square feet larger. Both the lots and the setbacks will remain conforming.

BOARD

No questions

PUBLIC

No comment

BOARD

MOVED by Mr. Gillick to grant the waivers to Subdivision Regulations, Section V.E (Detailed Plan) and Section VII.C (Storm Drainage)

SECOND by Mr. Viviano

VOTE: 7-0-0

.700

MOTION PASSED

MOVED by Mr. Gillick to approve the lot line adjustment as depicted on Site Plan 456 of July 12th, 2005 with stipulations as follows:

- The applicant shall submit final plans, recordable Mylar and applicable recording fees.
- A Certificate of Monumentation shall be provided.

SECOND by Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

8) Leo Pacheco

3-lot Subdivision at

16-23 Fielding Lane

Map 194 Lot 10-1

Waiver from Subdivision Regulation VII.C (Storm Drainage)

Owner of Record: Leo Pacheco

8a) REDHIP LLC c/o Mark Thurston, Leo Pacheco, Thomas & Jennifer Pierce

Minor Lot Line Adjustment at

16-23-land Fielding Lane

Map 208 + 194 Lots 1A-6 + 10-1

Waiver from Subdivision Regulation VII.C (Storm Drainage)

Owner of Record: Same as above

The applicant was not present. Application tabled to end of meeting.

10) Allan B Rogers Jr & Robert M Gray

Minor Lot Line Adjustment at

183 + 189 Woodland Road

Map 95 Lots 3 + 3A

Waivers from Subdivision Regs S. V.E. (Detailed Plans) & S. VIII.C (Storm Drainage)

Owner of Record: Allan B Rogers Jr & Robert M Gray

Robert Casassa, Attorney, and Ernie Cote, Surveyor, presented this application.

Mr. Casassa explained that the Rogers are proposing to purchase a portion of the Gray property. He stated that Mr. Rogers had acquired another property through lot line adjustment in 2002. Mr. Rogers is seeking to have an additional buffer to his home.

BOARD

Mr. Higgins asked what the size would be of the remaining lot. It will be .9 acres.

PUBLIC

No comments

BOARD

MOVED by Mr. Viviano to accept the waiver from Subdivision Regulations S. V.E. (Detailed Plans) & S. VIII.C (Storm Drainage)

SECOND by Mr. Gillick

VOTE: 7-0-0 MOTION PASSED

MOVED by Mr. Viviano to approve the lot line adjustment with stipulations as follows:

- The applicant shall submit final plans, a recordable Mylar and applicable recording fees.
- The applicant shall provide a Certificate of Monumentation.

SECOND by Mr. Gillick **VOTE: 7-0-0**

MOTION PASSED

11) Aquarion Water Company of NH

Special Permit to Impact Wetlands at

Exeter Road

Map 40 Lot 4

Owner of Record: Asset Title Holding Inc

The applicant was not present. Application tabled to the end of the meeting.

12) Brian C Hayes

Site Plan Review at

486 Winnacunnet Road

Map 222 Lot 82

Owner of Record: Brian C Hayes

Counsel was not present. Application tabled to the end of the meeting.

13) Verizon Communications

Site Plan Review

169 Winnacunnet Road

Map 177 Lot 42

Owner of Record: Verizon Communications

David Mains, Bay State Design Project Manager, and Tim McGonigle, Verizon Project Manager, presented this application. Mr. Mains described the project. He also described the condition of the Zoning Board for their approval. He indicated that they would like the Department of Public Works's approval for removing the paving in the front of the building.

He would like to remove the word "ductwork" from the proposal. The equipment has been redesigned so that ductwork will not be necessary. Existing lot coverage is 65%. Proposed surface coverage would be 62.6%. This results from removal of the paving on town property in the front.

BOARD

Mr. Gillick stated his concern was how the Board could be comfortable that these proposed changes will meet future needs of the building.

Mr. McGonigle said he is tripling cooling capacity with the proposed changes. They don't anticipate any future work on the building for some time.

Mr. Gillick asked Mr. McGonigle if he would commit to that in writing.

In response to a question from Mr. Gillick, Mr. McGonigle said there is one employee assigned to the building. The addition of parking is intended for the trucks, which come and go from the building.

Mr. Gillick reiterated that he is concerned that the applicant commit that this site will remain adequate for growth for some time into the future, in terms of space.

PUBLIC

No Comments

BOARD

Mr. Mains said he has had a wetlands scientist survey the site and provided a letter from this scientist indicating that there are no wetlands on the site.

Mr. Pratt asked for clarification that the HVAC is being upgraded to accommodate equipment in the building.

MOVED by Mr. Gillick to grant the site plan subject to the following conditions:

- Applicant shall provide documentation to the Planning Board that, with the work proposed, Verizon's needs, at this facility, will be met for the foreseeable future.
- The removal of the pavement in front of the building shall be coordinated with the Department of Public Works to ensure that the portion of pavement in the Town right-of-way is not removed.
- Prior to final approval, the applicant shall submit final plans and Mylar for the Planning Department's files.

SECOND by Mr. Viviano

VOTE: 7-0-0 MOTION PASSED

Mr. Mains asked if he should request a letter from the Department of Public Works. Chairman Emerick said that it would be the applicant's responsibility to coordinate with the Department of Public Works and provide that information to the Building Inspector when securing a building permit.

CONTINUED PUBLIC HEARINGS

John Tinios
Site Plan Review of addition
325 Lafayette Road
Map 175-176 Lots 10, 13, 15, 20
Waiver from Section VII.D (Stormwater study)
Owner of Record: John Tinios etal.

Mr. Stephen Ells, Attorney, Joe Coronati, Jones & Beach Engineers, and Lisa DiStefano, DiStefano Architects, presented this application.

Mr. Ells reviewed the requests made of the applicant at the last meeting. Cross easements were requested and provided to the planner this week. It is up to the Town Planner to determine if they are acceptable.

Mr. Coronati spoke to engineering review comments. Parking in the Town right-of-way has been there for years. With respect to snow storage, Mr. Coronati will modify the plan note. He will also note that drainage is acceptable.

BOARD

Mr. Higgins asked for clarification of which spaces are in the Town right-of-way. Mr. Ells said that perpendicular spaces in front of his own business on Winnacunnet Road are in the Town right-of-way. The Town gave Mr. Ells a license to use the spaces in front of his business. He said the applicant is willing to ask the Town for a license to formalize the existing arrangement at 325 Lafayette Road.

Mr. Pratt stated that only the Selectman can grant this license.

Mr. Higgins asked for clarification of the property line. He indicated that the entrance that the applicant had proposed to give up is, in fact, on Town land. After discussion, it was stated that most accesses to the property are on Town land in the old trolley line right-of-way. In response to Mr. Higgins' question, Mr. Coronati indicated that the structure is 6.5 feet from the applicant's property line.

Mr. Gillick asked if dealing with traffic problems at this intersection by T-ing it off, would affect Mr. Tinios' project.

Mr. Ells said they know this issue will be visited in the future. Mr. Ells said Mr. Tinios wants to pursue T-ing off of this intersection. That was the reason the applicant chose to not close off the problematic entrance at this time.

Mr. John Tinios arrived at this point. He stated safety is his priority. He has been studying the problem and believes that a T intersection makes sense. If this is done, creating a single entrance for the theater and the restaurant will make sense at that time.

Chairman Emerick asked where jurisdiction would fall for this issue.

Mr. Gillick stated that we were talking about several organizations being involved in this process. It involves the Federal Highway Administration. It would involve the NH Department of Transportation, Rockingham Planning Commission, the Seacoast Metropolitan Planning Organization etal. They are working on a Route 1 improvement plan. T-ing off and signalization of this intersection are part of that plan. Mr. Gillick wanted to be assured by the applicant that his project would not preclude these potential changes.

Mr. Higgins asked if Mr. Coronati had received Mr. Hangen's memo regarding one-way traffic only at the Lafayette Road entrance. Mr. Fougere had asked for a stipulation regarding striping of the access and egress.

Mr. Higgins stated that if the number of handicapped spaces provided is the required number, then they should all be on the owner's land, not on Town land. Mr. Coronati said the handicapped spots could be swapped so that they are on the owner's land. He said they would be further from the entrance, however.

Mr. McMahon stated that it is essential that the Selectman be approached on this so that it is clear that there is Town property here that is being used by others.

Chairman Emerick said that a stipulation of approval should be that a license from the Town is required.

PUBLIC

No comments

BOARD

Chairman Emerick asked Mr. Ells if he has comments on the handicapped parking issue.

Ms. DiStefano said that the Town land appears to be the safest place for the handicapped spaces.

Mr. Viviano stated that the Board could make a stipulation that if the town wants to use the land, the handicapped spaces will have to be redesigned.

MOVED by Mr. Pratt to grant the waiver from Section VII.D (Stormwater study) **SECOND** by Mr. Gillick

VOTE: 7-0-0 MOTION PASSED

MOVED by Mr. Pratt to accept the Site Plan at 325 Lafayette Road, Maps 175-176, Lots 10, 13, 15, 20, subject to the stipulations stated in the Town Planner's memo of July 29th and also the following stipulations:

- The applicant will go before the Board of Selectman for a license to use Town land.
- Travel lanes shall be marked.
- If the Town does not agree to grant a license for the use of Town land the handicapped parking spaces shall be relocated to the applicant's land.

SECOND by Mr. Bilodeau

VOTE: 6-1-0

MOTION PASSED

15) Condo View Realty Trust

Carolyn N Rioux, Trustee

Site Plan Review to construct 14 residential condominium units in seven buildings each containing two units; occupancy to be limited by RSA 354-A: 15, "Housing for Older Persons" at 30 Towle Farm Road

Map 123, Lot 3

Owner of Record: Same as above

15a) Condo View Realty Trust

Carolyn N. Rioux, Trustee

Special Permit to Impact Wetlands Conservation District in conjunction 7-building, 14-unit condominium at

30 Towle Farm Road

Map 123, Lot 3

Owner of Record: Same as above

Steven Ells, Attorney, Henry Boyd, Millenium Engineering, and Peter Ross, Applicant, presented this application. Mr. Ells explained the current status. He indicated they have met with abutters and come to agreement with them regarding the fence and planting of mature trees.

Mr. Boyd addressed the review and comment by Ambit Engineering. He said they disagree with Ambit's opinion with respect to drainage. However, he has added a change to address Ambit's concern. Mr. Boyd indicated they agree with the documentation comments from Ambit.

The final Ambit issue was location of the fire hydrant. He indicated they are willing to place hydrant on Towle Farm Road so that it will be available to the Town for use.

He indicated that they have moved the spillway out of the 50-foot buffer and added gravel. They have also included grass pavers in the turnaround as recommended by the Conservation Commission.

BOARD

No questions

PUBLIC

No comments

BOARD

MOVED by Mr. Gillick to grant the special permit to work in the wetlands buffer.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

MOVED by Mr. Gillick to approve the site plan to construct 14-units in 7 buildings, each to contain 2 units, occupancy to be limited by RSA 354-A: 15, "Housing for Older Persons", at 30 Towle Farm Road, Map 123, Lot 3, subject to the conditions listed in the Town Planner's memo of July 27th, the Conservation Commission stipulations in its June 20th letter and the following conditions:

- Payment of School Impact Fees of \$1,898 per unit.
- A fire hydrant license shall be provided to the Town.
- Submission of a copy of the agreement letter between the applicant and the Riverwalk/Drakes Landing Condominium Association regarding the fencing and landscape issues for the project.

SECOND by Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

8a) REDHIP LLC c/o Mark Thurston, Leo Pacheco, Thomas & Jennifer

Pierce

Minor Lot Line Adjustment at

16-23-land Fielding Lane

Map 208 + 194 Lots 1A-6 + 10-1

Waiver from Subdivision Regulation VII.C (Storm Drainage)

Owner of Record: Same as above

Owner not present – postponed

8) Leo Pacheco

3-lot Subdivision at

16-23 Fielding Lane

Map 194 Lot 10-1

Waiver from Subdivision Regulation VII.C (Storm Drainage)

Owner of Record: Leo Pacheco

Peter Saari, Attorney, and Ernie Cote, Surveyor, presented this application. Mr. Saari described the lot line adjustment proposed.

BOARD

No questions

8/25/2005

PUBLIC

No comments

BOARD

MOVED by Mr. Gillick to grant the waiver from Subdivision Regulation VII.C (storm drainage) for 16-23 Fielding Lane, Map 194 Lot 10-1

SECOND by Mr. Bilodeau

VOTE: 7-0-0

The applicant explained the reasoning behind a lot line adjustment is to create proper frontage. Mr. Higgins said there are two other lot line adjustments that are unexplained. Mr. Cote said this was an exchange. The frontage issue was discussed.

MOVED by Mr. Gillick to grant the 3 lot line adjustments at 16-23 Fielding Lane, Map 194 Lot 10-1

SECOND by Mr. Viviano

VOTE: 6-1-0

MOTION PASSED

MOTION PASSED

8) Leo Pacheco
3-lot Subdivision at
16-23 Fielding Lane
Map 194 Lot 10-1
Waiver from Subdivision Regulation VII.C (Storm Drainage)
Owner of Record: Leo Pacheco

BOARD

Mr. Gillick stated that previously drainage in this area had been discussed extensively. He is concerned about drainage in this location because of the history.

Mr. Saari said he is aware of this and believes that a storm drainage study for the subdivision may be appropriate. Mr. Cote described the subdivision.

Mr. Pratt asked Mr. Cote to point out the three lots. Mr. Gillick asked if the applicant had received the Town Planner's July 27th memo.

PUBLIC

Susan Scott, stated she has concerns about this subdivision. One concern is that the Town connected Hedman Avenue to Scott property. Another is that there is a question as to lot lines. She has hired someone to do deed research to determine exactly where boundary lines are. She would like the decision to be postponed until this study is completed. Her third concern is drainage. Her property is west of the Pacheco's. She has 6 acres there that she would like to develop some day.

In response to a question from Mr. Gillick, Ms. Scott indicated that there is a boundary dispute with respect to one of the lots created in this subdivision.

Paul Nicholson, 11 Presidential Circle, indicated that he is concerned about drainage. He indicated that after the Fielding Lane development was built he got 4 feet of water in his basement and garage during a storm. He is concerned that this problem will become more severe.

Terrence Morrison, 23 Presidential Circle, is concerned about the drainage problems from Fielding Lane and the potential waiver of a storm drainage plan.

Mr. Saari suggested that they withdraw the application, get a storm drainage study done, and have it reviewed by Ambit Engineering. They agreed to continuance of the application to September 21st.

12) Aquarion Water Company of NH
Special Permit to Impact Wetlands at
Exeter Road
Map 40 Lot 4
Owner of Record: Asset Title Holding Inc

Sherri Davis, Project Manager, Adele Piralo, NH Soil Consultants, and Dr. Tarkington, GeoSphere Environmental Management, presented this application. She described the project, which involves gravel access roads and four bedrock test wells. The project intends to impact wetlands and the wetland buffer.

BOARD

Mr. McMahon asked how the contour is to be determined.

The applicant stated the plan presented to the Board was developed for another purpose. Dr. Tarkington described where the property was in relation to the water tower and Route 95.

Mr. Higgins asked where the access is to the site. A discussion of the access road took place.

PUBLIC

No Comments

BOARD

MOVED by Mr. Gillick to approve the Special Permit at Exeter Road Map 40 Lot 4 subject to provision of updated plans to show contour lines and location of the access road.

SECOND by Mr. Bilodeau

VOTE: 7-0-0 MOTION PASSED

13) Brian C Hayes
Site Plan Review at
486 Winnacunnet Road
Map 222 Lot 82

Owner of Record: Brian C Hayes

Mr. Stephen Ells, Attorney, and Brian Hayes, Applicant, presented this application. The plan is to demolish the existing home and replace it with a single-building 5-unit condominium with parking underneath. Access is off a "paper" street known as Surf Street. Mr. Ells said the Zoning Board was in favor of using access off Surf Street rather than from Winnacunnet Road. There is a grade difference between Winnacunnet Road and this property.

Chairman Emerick asked for clarification of the definition of a "paper street". Mr. Ells explained the history of these "streets". Surf Street has been used as a private driveway to the Lewis property for a number of years.

Mr. Ells provided the Board with research to provide to the Town Attorney on the access issue. He described the legal subtleties of holding title to land versus an access easement over the land. There is an issue as to the deeds for this "paper street". After a certain period of time, access becomes a right to parties not owning the land.

Mr. Ells also presented a site plan for another recently built condominium property on Bonair Avenue, which shows Surf as a street. Mr. Ells said he doesn't believe the Town would want this to be a street, but rather an access driveway for the condominium that the condominium will be responsible for.

Mr. Gillick asked if it is clear in Mr. Ells mind as to who has title to the land that is depicted on the plan as "Surf Street". Mr. Ells' understanding is that title went to the abutters at some time in the past. Mr. Gillick said if we could establish clear title, those owners can grant an easement for the use. Mr. Ells said that is unnecessary, since the law gives permission for access.

Mr. Higgins said he believes that the abutters may need to be parties to this application, since they own "Surf Street".

Discussion of the legal issues involved took place. Mr. Ells stated he believes there is no legal issue. He is comfortable that the Town Attorney will come back and say that applicant has right of access, which includes the right to develop.

Mr. Viviano questioned whether titleholders would have the right to build on that land.

Mr. Higgins stated he believes the Board should have a legal opinion before accepting jurisdiction of the application.

Mr. McMahon asked how the other lots related to Surf Street. Lots 8-15 all have access to Winnacunnet Road. Only Lot #16 has no access to Winnacunnet Road.

Mr. Ells said they could bring access in from Winnacunnet Road, but the Zoning Board prefers access from Surf Street.

PUBLIC

No comment

BOARD

Mr. Gillick referred to the Town Planner's July 27th memo.

MOVED by Mr. Gillick to accept jurisdiction of the application and send it out for departmental review with the conditions as stated in the Town Planner's July 27th memo.

SECOND: by Mr. Pratt Mr. Higgins disagreed

VOTE: 3-4-0 MOTION FAILED

MOVED by Mr. Higgins to continue the application to a date certain of September 21st.

SECOND by Mr. McMahon

VOTE: 6-0-1 MOTION PASSED

III. CONSIDERATION OF MINUTES of July 20, 2005

Page 1 – Correct attendees list

MOVED by Mr. Viviano to accept the July 20th minutes as amended

SECOND by Mr. Pratt

VOTE: 7-0-0 MOTION PASSED

IV. CORRESPONDENCE

• Jones & Beach Engineers – requesting that improvements at end of Harbor Road wait until after infrastructure project is complete. The Board agreed.

MOVED by Mr. Pratt to grant request **SECOND** by Mr. McMahon **VOTE**: 7-0-0

MOTION PASSED

• Jones & Beach Engineers – requesting a bond for Hampton River Marina. This will be forwarded to the Department of Public Works for a recommended bond amount.

III. OTHER BUSINESS

Dunkin Donuts – Discussion of the status of the crosswalk marking.

MOVED by Mr. Pratt to adjourn. **SECOND** by Mr. Bilodeau

VOTE: 7-0-0 MOTION PASSED

Meeting adjourned at 9:29 PM.

Respectfully Submitted, Barbara Renaud Planning Board Secretary